



Reprinted
April 10, 2007

ENGROSSED HOUSE BILL No. 1312

DIGEST OF HB 1312 (Updated April 9, 2007 3:30 pm - DI 110)

Citations Affected: IC 25-2.1.

Synopsis: Accountants. Increases the number of members on the board of accountancy (board) from six to seven. Provides that the members' terms expire on June 30. Requires the board to: (1) adopt rules for a quality review of CPA and PA firms that renew permits to practice accountancy; and (2) investigate a complaint made by a board of accountancy or the equivalent of a board of accountancy in another state. Establishes: (1) the accountant investigative fund (fund) to provide funds for administering and enforcing accountancy laws; and (2) a civil penalty of \$25,000 for certain violations. Provides that the
(Continued next page)

Effective: July 1, 2007.

Austin, Denbo, Harris T
(SENATE SPONSORS — LAWSON C, LANANE)

January 26, 2007, read first time and referred to Committee on Government and Regulatory Reform.

February 15, 2007, reported — Do Pass.

February 19, 2007, read second time, ordered engrossed. Engrossed.

February 21, 2007, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

April 5, 2007, amended, reported favorably — Do Pass.

April 9, 2007, read second time, amended, ordered engrossed.

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fund consists of fees assessed against certified accountants and civil penalties collected. Continually appropriates money from the fund to the professional licensing agency for its use in administering and enforcing accountancy laws. Allows the attorney general and the professional licensing agency to enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement of the accountancy laws. Eliminates the requirement that an individual with a valid CPA certificate or similar qualifications from another state who intends to conduct business as a CPA in Indiana must notify the board of that intent. Provides that a CPA firm that employs individuals who have all the privileges granted to a CPA certificate holder consents to certain actions and requirements. Repeals provisions concerning certification of accounting practitioners.

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April 10, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1312

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-2.1-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This article may be
3 cited as "the accountancy act of ~~2001~~ **2007**".
- 4 SECTION 2. IC 25-2.1-1-3.8 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.8. "Attest" means to
6 provide any of the following financial statement services:
- 7 (1) An audit or other engagement performed in accordance with
8 the AICPA Statements on Auditing Standards (SAS) or other
9 similar standards adopted by reference under IC 25-2.1-2-15.
- 10 (2) A review of a financial statement performed in accordance
11 with the AICPA Statements on Standards for Accounting and
12 Review Services (SSARS) or other similar standards adopted by
13 reference under IC 25-2.1-2-15.
- 14 (3) An examination of prospective financial information
15 performed in accordance with the AICPA Statements on
16 Standards for Attestation Engagements (SSAE) or other similar
17 standards adopted by reference under IC 25-2.1-2-15.

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(4) An engagement performed in accordance with the standards of the Public Company Accounting Oversight Board.

SECTION 3. IC 25-2.1-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. "Certificate" means:

(1) a certificate for a certified public accountant issued under IC 25-2.1-3 or IC 25-2.1-4;

(2) a certificate of registration for an accounting practitioner issued under IC 25-2.1-6-1 **(before its repeal)**; or

(3) a certificate for a certified public accountant, public accountant, or accounting practitioner renewed under IC 25-2.1-4.

SECTION 4. IC 25-2.1-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. "Quality review" means a study, an appraisal, or a review of at least one (1) aspect of the professional work of:

(1) an individual **who**; or

(2) a firm in the practice of accountancy **that**;

attests or issues compilation reports, by at least one (1) individual who holds a certificate **from any state and possesses qualifications that meet the applicable substantial equivalency standards** and who is independent of the individual or firm being reviewed.

SECTION 5. IC 25-2.1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The board consists of ~~six (6)~~ **seven (7)** members appointed by the governor.

(b) ~~Four (4)~~ **Five (5)** members must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a certified public accountant under IC 25-2.1-3 or IC 25-2.1-4.

(c) ~~One (1)~~ member must meet the following conditions:

(1) ~~Be a resident of Indiana.~~

(2) ~~Be certified as a public accountant or an accounting practitioner under IC 25-2.1-6.~~

(d) ~~One (1)~~ member (c) **Two (2)** members must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a consumer who is not certified under this article but has professional or practical experience in the use of accounting services and financial statements that qualify the individual to make judgments about the qualifications and conduct of individuals and firms under this article.

SECTION 6. IC 25-2.1-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A member of the

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board serves a term of three (3) years and until the member's successor is appointed and qualified.

(b) An individual may not serve more than two (2) complete terms. An appointment to fill an unexpired term is not a complete term.

(c) All terms expire on June 30.

SECTION 7. IC 25-2.1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Fees collected by the board shall be received and accounted for by the board and be deposited in the state general fund.

(b) In addition to the fee to issue or renew a certificate or permit, the board shall establish a fee of not more than ten dollars (\$10) per year for a person who holds a certificate as an accounting practitioner, a CPA, or a PA to provide funds for administering and enforcing the provisions of this article, including investigating and taking action against persons who violate this article. All funds collected under this subsection shall be deposited in the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 8. IC 25-2.1-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The board may adopt rules under IC 4-22-2 governing the administration and enforcement of this article and the conduct of licensees, including the following:

- (1) The board's meetings and conduct of business.
- (2) The procedure of investigations and hearings.
- (3) The educational and experience qualifications required for the issuance of certificates under this article and the continuing professional education required for renewal of certificates under IC 25-2.1-4.
- (4) Rules of professional conduct directed to controlling the quality and probity of the practice of accountancy by licensees, including independence, integrity, and objectivity, competence and technical standards, and responsibilities to the public and clients.
- (5) The actions and circumstances that constitute professing to be a licensee in connection with the practice of accountancy.
- (6) The manner and circumstances of use of the title "certified public accountant" and the abbreviation "CPA".
- (7) Quality reviews that may be required to be performed under this article.
- (8) Methods of applying for and conducting the examinations, including methods for grading examinations and determining a passing grade required of an applicant for a certificate. However,

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the board shall to the extent possible provide that the examination, grading of the examination, and the passing grades are uniform with those applicable in other states.

(9) Substantial equivalency.

(10) Administration of the accountant investigative fund established by IC 25-2.1-8-4.

SECTION 9. IC 25-2.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The board shall renew a certificate issued under:

(1) this chapter;

(2) IC 25-2.1-3 (certified public accountants); or

(3) IC 25-2.1-6 (public accountants and accounting practitioners) **before July 1, 2007;**

if the holder of the certificate applies and meets the requirements under this chapter.

SECTION 10. IC 25-2.1-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) An individual:

(1) whose principal place of business is not in Indiana; and

(2) who either:

(A) has a valid certificate as a CPA from any state that the board or its designee has determined to be in substantial equivalence with the CPA licensure requirements of this state; or

(B) has individual CPA qualifications that have been determined by the board or its designee as substantially equivalent to the CPA licensure requirements of Indiana;

shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges granted to the holder of a CPA certificate under IC 25-2.1-3 without the need to obtain a certificate under IC 25-2.1-3 or a permit under IC 25-2.1-5.

~~(b) An individual to whom subsection (a) applies shall notify the board of the individual's intent to conduct business in the state under subsection (a).~~

(b) Notwithstanding any other provision of law, an individual who offers or renders professional services, in person or by mail, telephone, or other electronic means, as authorized under this section:

(1) is not required to provide notice or other submissions to the board; and

(2) is subject to the requirements in subsection (c).

(c) An individual of another state exercising the privilege granted under this section ~~consents~~, **and a CPA firm that employs the**

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individual consent, as a condition of the grant of this privilege: ~~to~~
 (1) ~~to~~ the personal and subject matter jurisdiction and disciplinary
 authority of the board;
 (2) ~~to~~ comply with this article and the board's rules; ~~and~~
 (3) **that if a certificate as a CPA from the state of the**
individual's principal place of business is no longer valid, the
individual shall cease exercising the privilege granted under
this section in Indiana, individually and on behalf of the CPA
firm; and
 (4) ~~to~~ the appointment of the state board or agency that issued
 the individual's license as the individual's agent on whom process
 may be served in any action or proceeding by this board against
 the individual.

SECTION 11. IC 25-2.1-5-8 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board ~~may~~
shall adopt rules that require as a condition to renew a permit under
 this chapter, that an applicant undergo, not more than once every three
 (3) years, a quality review conducted in a manner the board specifies.

~~(b) If the board adopts rules under subsection (a)~~ The rules **adopted**
under subsection (a) must:

- (1) be adopted reasonably in advance of the time when a quality
 review first becomes effective;
- (2) include reasonable provision for compliance by an applicant
 showing that the applicant has in the preceding three (3) years
 undergone a quality review that is a satisfactory equivalent to the
 quality review required under this section;
- (3) require, with respect to quality reviews under subdivision (2),
 that the quality review be subject to review by an oversight body
 established or sanctioned by the board that shall periodically
 report to the board on the effectiveness of the review program and
 provide to the board a listing of firms that have participated in a
 quality review program; and
- (4) require, with respect to quality reviews under subdivision (2),
 that:
 - (A) the proceedings, records, and work papers of a review
 committee are privileged and are not subject to discovery,
 subpoena, or other means of legal process or introduction into
 evidence in a civil action, arbitration, administrative
 proceeding, or Indiana board of accountancy proceeding; and
 - (B) ~~that~~ a member of the review committee or individual who
 was involved in the quality review process is not permitted or
 required to testify in a civil action, arbitration, administrative

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proceeding, or Indiana board of accountancy proceeding to matters:

- (i) produced, presented, disclosed or discussed during, or in connection with, the quality review process; or
- (ii) that involve findings, recommendations, evaluations, opinions, or other actions of the committee or a committee member.

SECTION 12. IC 25-2.1-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) The board may not issue a certificate under this chapter after July 1, 2007.**

(b) The board may renew a certificate under this chapter that is held validly before July 1, 2007.

SECTION 13. IC 25-2.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. An individual who is registered with the board to practice accounting as an accounting practitioner and holds a valid certificate issued under section 1 of this chapter **(before its repeal)** or renewed under IC 25-2.1-4 may be known as an "accounting practitioner" and may use the abbreviation "AP". However, an individual registered as an accounting practitioner may not prepare or render accounting opinions or certificates for any purpose, including financial statements, schedules, reports, or exhibits for publication, credit purposes, and use in a court.

SECTION 14. IC 25-2.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The board may impose sanctions for any of the following reasons:

- (1) A violation of IC 25-1-11-5.
- (2) Revocation or suspension of the right to practice before a state or federal agency.
- (3) Dishonesty, fraud, or gross negligence in the practice of accountancy or in the filing of or failure to file the licensee's own income tax returns.
- (4) Any conduct reflecting adversely on the licensee's fitness to engage in the practice of accountancy.
- (5) Failure to complete continuing education requirements satisfactorily.
- (6) Failure to furnish evidence, when required, of satisfactory completion of continuing education requirements.

(b) A holder of a CPA certificate issued under this article is subject to disciplinary action in this state if the CPA certificate holder:

- (1) offers or renders services or uses the CPA title in another state; and

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(2) commits an act in that other state for which the CPA certificate holder would be subject to discipline in the other state if the CPA certificate holder were licensed in the other state.

The board shall investigate a complaint made by a board of accountancy or the equivalent of a board of accountancy in another state.

SECTION 15. IC 25-2.1-8-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4. (a) The accountant investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the Indiana professional licensing agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of:

(1) money from a fee imposed upon a person who holds a certificate as an accounting practitioner, a CPA, or a PA under IC 25-2.1-2-12(b); and

(2) civil penalties collected under IC 25-2.1-13-3(b).

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the total amount in the fund exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated to the Indiana professional licensing agency for its use in administering and enforcing this article and conducting investigations and taking enforcement action against persons violating this article.

(f) The attorney general and the Indiana professional licensing agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

(g) The attorney general and the licensing agency shall present the memorandum of understanding annually to the board for review.

SECTION 16. IC 25-2.1-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3. (a) An individual or a firm who knowingly violates IC 25-2.1-12 commits a Class A**

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1 misdemeanor.

2 **(b) If the board finds that an individual or a firm knowingly**
3 **violates IC 25-2.1-12 or a rule or order established by the board**
4 **under this section, the board may impose a civil penalty of not**
5 **more than twenty-five thousand dollars (\$25,000) per violation.**
6 **Penalties collected under this section shall be deposited in the**
7 **accountant investigative fund established by IC 25-2.1-8-4.**

8 SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE
9 JULY 1, 2007]: IC 25-2.1-6-1; IC 25-2.1-6-2; IC 25-2.1-6-3;
10 IC 25-2.1-6-4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1312, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 7, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 19, delete "or" and insert "**from any state and**".

Page 7, line 35, reset in roman "Class A".

Page 7, line 36, reset in roman "misdemeanor".

Page 7, line 36, delete "Class D felony".

and when so amended that said bill do pass.

(Reference is to HB 1312 as printed February 16, 2007.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1312 be amended to read as follows:

Page 7, between lines 32 and 33, begin a new paragraph and insert:

"(f) The attorney general and the Indiana professional licensing agency may enter into a memorandum of understanding to provide the attorney general with funds to conduct investigations and pursue enforcement action against violators of this article.

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(g) The attorney general and the licensing agency shall present the memorandum of understanding annually to the board for review."

(Reference is to EHB 1312 as printed April 6, 2007.)

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